



New South Wales

Crimes Legislation Amendment Bill 2013

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The objects of this Bill are as follows:

- (a) to amend the *Bail Act 1978* to clarify that a magistrate may review any decision made in relation to bail by the President of the Children's Court, exercising the jurisdiction of the Children's Court,
- (b) to amend the *Crimes Act 1900* to extend the period for review of certain provisions of that Act relating to consorting with convicted offenders,
- (c) to make various amendments to the *Crimes (Forensic Procedures) Act 2000*, including to provide that a hearing of an application for an order to authorise the carrying out of a forensic procedure may be heard *ex parte*,
- (d) to amend the *Crimes (High Risk Offenders) Act 2006* in relation to the provision to the Attorney General of information held by a court relating to the behaviour, or physical or mental condition, of an offender,
- (e) to amend the *Criminal Procedure Act 1986* to make it clear that protections that apply to the giving of evidence by a witness in certain sexual offence proceedings extend to evidence about acts that would constitute a relevant sexual offence,
- (f) to amend the *Interpretation Act 1987* in relation to the interpretation of references to offences punishable by imprisonment for a specified term or more.

Outline of provisions

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on the date of assent to the proposed Act.

Schedule 1 Amendment of legislation

Schedule 1.1 Bail Act 1978 No 161

Schedule 1.1 clarifies that a magistrate may review any decision made in relation to bail by the President of the Children's Court, exercising the jurisdiction of the Children's Court.

Schedule 1.2 Crimes Act 1900 No 40

Schedule 1.2 extends the period within which the Ombudsman must prepare a report on the operation of certain provisions of the *Crimes Act 1900* relating to consorting with convicted offenders. The review period is currently due to end on 9 April 2014 (2 years after the commencement of those provisions). The proposed amendment extends the review period for a further year.

Schedule 1.3 Crimes (Forensic Procedures) Act 2000 No 59

Schedule 1.3 [1] makes it clear that the legal representative and interview friend of a suspect who is subject to an order (made by oral communication) to carry out a non-intimate forensic procedure must be given the opportunity to speak to the senior police officer who made the order.

Schedule 1.3 [3] removes the requirement for an application for an order authorising the carrying out of a forensic procedure on a suspect to be made in the presence of the suspect. Schedule 1.3 [2] makes a consequential amendment.

Schedule 1.3 [4] enables a magistrate to make an order authorising the carrying out of a forensic procedure on a suspect *ex parte*. Schedule 1.3 [5] and [6] make consequential amendments.

Schedule 1.4 Crimes (High Risk Offenders) Act 2006 No 7

Schedule 1.4 [1] enables the Attorney General to request a court to provide information held by the court that relates to the behaviour, or physical or mental condition, of an offender. Schedule 1.4 [2] provides that the information is admissible in proceedings under the *Crimes (High Risk Offenders) Act 2006*.

Schedule 1.5 Criminal Procedure Act 1986 No 209

Schedule 1.5 extends Division 1 of Part 5 of the *Criminal Procedure Act 1986* to make it clear that the protections of that Division that apply to the giving of evidence by certain witnesses in sexual offence proceedings are not limited to the sexual offences to which the Division applies and extend to acts that would constitute such an offence if they occurred in the State at the time of the proceedings.

Schedule 1.6 Interpretation Act 1987 No 15

Schedule 1.6 provides for the avoidance of doubt that, in any Act or instrument, a reference to an offence that is punishable by imprisonment for a specified term or more includes a reference to a common law offence and an offence that is punishable by imprisonment for life.